

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JEFFREY L. WIESE,)	
)	4:04CV3195
Plaintiff,)	
)	
vs.)	
)	ORDER
JOHN HJERSMAN, individually and)	
as parent and legal guardian of Marcus)	
Hjersman, and)	
MARCUS HJERSMAN, a minor,)	
)	
Defendants,)	
)	
ALLIANCE MOTOCROSS ASSOCIATION,)	
INCORPORATED,)	
)	
Defendant and)	
Third-Party Plaintiff,)	
)	
vs.)	
)	
TERRY GRUBBS,)	
)	
Third-Party Defendant.)	

This matter is before the court on the proffer of the deposition transcripts of Lewiston Birkman, M.D., and Ronald Schwab, M.D., and objections made during the videotaped depositions as reflected in the transcripts. The court rules as follows:

As to the deposition of Lewiston Birkman, M.D., the foundation objections noted on pages 17 and 18 are overruled. No part of Dr. Birkman's deposition need be redacted, however the parties may redact portions of the videotape to eliminate the objections.

As to the deposition of Ronald Schwab, M.D., the objections noted are ruled upon as indicated and the videotape shall be edited to eliminate the lines indicated:

<u>Objection</u>	<u>Page</u>	<u>Line</u>	<u>Ruling</u>	<u>Videotape Lines Eliminated</u>
form, foundation	p. 16	7	Overruled	p. 16:7
form, foundation	p. 16	20-21	Overruled	p. 16:20-21
form of question (compound)	p. 24	15-17	Overruled	p. 24:15-17
form, foundation	p. 29	19-22	Sustained	p. 29:8-23
form, foundation	pp. 30-31	24-25;1-3	Overruled	p. 30:24-p. 31:3
form, foundation	p. 32	8-10	Overruled	p. 32:8-10
form, foundation	p. 33	9-10	Overruled	p. 33:9-10, p. 33:14-p. 36:1
foundation	p. 37	2-12	Overruled	p. 37:2-12
foundation, hearsay	pp. 37-38	24-25; 1	Overruled	p. 37:24-p. 38:1
foundation, hearsay	pp. 38-39	24-25; 1	Overruled	p. 38:24-p. 39:1
foundation, hearsay	pp. 39-40	25; 1-2	Overruled	p. 39:25-p. 40:2
foundation, hearsay	p. 42	2-6	Sustained	p. 42:1-9
form, foundation, hearsay	p. 43	8-11	Overruled	p. 43:8-11
relevance	p. 43	18-20	Overruled	p. 43:18-20
foundation, hearsay	p. 44	10-12	Overruled	p. 44:10-12
form	pp. 44-45	24-25; 1	Overruled	p. 44:24-p.45:1
speculation	pp. 46-47	22-25; 2	Overruled	p. 46:22-47:2
foundation	p. 47	22-24	Overruled	p. 47:22-24
foundation	p. 49	11-13	Overruled	p. 49:11-13
foundation, hearsay	p. 64	5; 8-9	Overruled	p. 64:5, p. 64:8-9
form, foundation	p. 69	15-16	Overruled	p. 69:15-16
speculation	p. 70	16-17	Sustained	p. 70:11-19

IT IS SO ORDERED.

DATED this 14th day of September, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge